



***Town of Tyngsborough***  
*Zoning Board of Appeals*  
Town Hall-25 Bryants Lane  
Tyngsborough, MA 01879-1003  
(978) 649-2300, Ext. 115

**TYNGSBOROUGH ZONING BOARD OF APPEALS MINUTES**

**July 11, 2013**

**APPROVED**

Attachments:

1. Meeting Agenda
2. 9 Diamond St. ZBA Application – 6/17/2013
3. 237 Pawtucket blvd. ZBA Application – 6/17/13
4. 80 Diamond St. ZBA Application – 6/17/13

Members Present: Claire Cloutier, Chairman  
Robb Kydd, Vice Chairman  
Chris Mechalides  
Scott Bordeleau

Members Absent: Joe Polin  
Cheryl Bradley

**6:30pm** Meeting was called to order by Chairman C. Cloutier

Chairman Cloutier informed the applicants that since there are only 4 out of the six Board members hearing applications tonight, a unanimous vote is required for approval. She went on to offer the applicants the option to continue their hearing until the next Board meeting in August.

**Public Hearing #1**

**9 Diamond St. (Map15, Parcel 2, Lot 11)** – Request for a Variance from the requirements of Section 2.12.50 (Side Yard Setbacks) of the Tyngsborough Zoning By-Law to construct a 38' x 36' garage with game room, and mud room addition in an R-1 Zone. *Advertised in the Lowell Sun Wednesday July 3, 2013 and Wednesday July 10, 2013.*

**Abutters List Present and Complete**

**C. Mechalides:** Motion to waive the reading of the abutters list.

**R. Kydd:** 2<sup>nd</sup> the motion

**In Favor: 4 Opposed: 0 Absent: 2**

**Passes: 4-0-2**

Application Presentation by Applicant/Designee:

Applicant Gregory Rollins appeared before the Board requesting a side yard setback variance in order for him to construct a 38' x 36' garage with a game room above, and mud room. R. Kydd asked why it was necessary to encroach on the buffer zone. Mr. Rollins indicated that the lot size made it difficult to place the desired size addition within the 30 foot setback. Abutter Peter Nicosia added his knowledge of the subdivision by saying that it was an "open space subdivision" which allows undersized lots in the R-1 zone. This design makes expanding a home on the lots difficult, requiring ZBA relief from the setbacks. Direct abutter Rod Wood at 30 Red Gate Rd. spoke in favor of the project and has no issues with the addition. There were no other abutters present to speak for or against this project.

**R. Kydd:** Motion to close the public portion of the hearing.

**C. Mechalides:** 2<sup>nd</sup> the motion

**In Favor: 4 Opposed: 0 Absent: 2**

**Passes: 4-0-2**

Open discussion by the Board and Q & A to Applicant with Applicant responses

The Board discussed whether there is a substantial hardship, financial or otherwise to the petitioner as indicated in Section 1.13.21 of the Zoning By-Laws. C. Mechalides noted that the hardship only satisfies the shape of the lot and not the topography or the soil conditions. The Board asked if the size of the proposed addition could be scaled down in order to meet the setbacks. The applicant would need to study that option and asked if he could withdraw his application without prejudice.

**C. Cloutier:** Motion to accept the applicant's request to withdraw the application without prejudice.

**R. Kydd:** 2<sup>nd</sup> the motion

**In Favor: 4 Opposed: 0 Absent: 2**

**Passes: 4-0-2**

## **Public Hearing #2**

**237 Pawtucket Blvd. (Map 34, Parcel 27, Lot 0)** – Request for a Variance from Section 2.12.50, and a Special Permit under Section 2.15.24 of the Tyngsborough Zoning By-Law to add a second floor addition to an existing single family dwelling in an R-1 Zone. *Advertised in the Lowell Sun Wednesday July 3, 2013 and Wednesday July 10, 2013.*

### **Abutters List Present and Complete**

**R. Kydd:** Motion to waive the reading of the abutters list.

**C. Mechalides:** 2<sup>nd</sup> the motion

**In Favor: 4 Opposed: 0 Absent: 2**

**Passes: 4-0-2**

### **Application Presentation by Applicant/Designee:**

Applicants Fred and Stacey Webster appeared before the Board to request a variance and special permit for a second floor addition. They've recently had a new baby and their current home is too small. Since their parents just moved in next door, they do not want to move. They went on to say that the footprint of the home will not change; they are just building a second floor onto the ranch style home. In addition, since the home is on town sewer, the added bedrooms will not be an issue. There were no abutters present to speak for or against this project.

**R. Kydd:** Motion to close the public portion of the hearing.

**S. Bordeleau:** 2<sup>nd</sup> the motion

**In Favor: 4 Opposed: 0 Absent: 2**

**Passes: 4-0-2**

### **Open discussion by the Board and Q & A to Applicant with Applicant responses**

The Board felt that this project would not be detrimental to the neighborhood and they had no issues with it, especially due to the pre-existing non-conforming status of the lot.

### **Review Notes/Comments on Application from other Tyngsborough Departments**

Conservation Commission: No Issues as long as the work is confined to existing footprint with no foundation expansion.

Sewer: None  
Selectmen: None  
Board of Health: None  
Fire Dept.: None  
Building Commissioner: None  
Tax Collector: None  
Police Dept.: None  
Highway Dept.: None  
Assessor: None

**C. Mechalides:** Motion to grant a Variance under Section 2.12.50 and a Special Permit under Section 2.15.24 for 237 Pawtucket Blvd.

**R. Kydd:** 2<sup>nd</sup> the motion

**In Favor: 4 Opposed: 0 Absent: 2**

**Passes: 4-0-2**

**Motion written as follows:**

Motion to **APPROVE**; Assessors Map 34, Parcel 27, Lot 0; request for a Variance for requirements of Section 2.12.50 (standard dimensional requirements) of the Zoning By-Laws for the following dimensional setbacks in an R-1 Zone: from the required minimum lot size of 65,000 s.f. to 15,237 s.f.; the required minimum frontage of 200' to 100'; the required minimum left yard setback from the required 30' to 8.9'; the required minimum right yard setback from 30' to 5.9'; the required minimum rear yard setback from 30' to 28.2' to construct a second floor 1,449 s.f. addition to the existing home as shown on Board of Appeals plan dated 6/3/13, and Webster Residence plan view dated 6/13/13 by Chris Mechalides, seconded by Robb Kydd.

**4-0, Motion to APPROVE – unanimous**

<b>Claire Cloutier</b>	<b>AYE</b>
<b>Chris Mechalides</b>	<b>AYE</b>
<b>Robb Kydd</b>	<b>AYE</b>
<b>Scott Bordeleau</b>	<b>AYE</b>

Motion to **APPROVE**; Assessors Map 34, Parcel 27, Lot 0; request for a Special Permit to construct a second floor 1,449 s.f. addition, not to exceed 36' to the existing home as shown on Board of Appeals plan dated 6/3/13, and Webster Residence plan view dated 6/3/13 by Chris Mechalides, seconded by Robb Kydd.

**4-0, Motion to APPROVE – unanimous**

<b>Claire Cloutier</b>	<b>AYE</b>
<b>Chris Mechalides</b>	<b>AYE</b>
<b>Robb Kydd</b>	<b>AYE</b>
<b>Scott Bordeleau</b>	<b>AYE</b>

### **Public Hearing #3**

**80 Diamond St. (Map 15, Parcel 2, Lot 26)** – Request for a Variance from the requirements of Section 2.12.50 (Side Yard Setbacks) of the Tyngsborough Zoning By-Law to construct a 24' 36' one floor master bedroom addition in an R-1 Zone.

*Advertised in the Lowell Sun Wednesday July 3, 2013 and Wednesday July 10, 2013.*

#### **Abutters List Present and Complete**

**C. Mechalides:** Motion to waive the reading of the abutters list.

**R. Kydd:** 2<sup>nd</sup> the motion

**In Favor: 4 Opposed: 0 Absent: 2**

**Passes: 4-0-2**

#### **Application Presentation by Applicant/Designee:**

Applicant Peter Nicosia appeared before the Board to request a variance for a first floor master bedroom addition. Since the birth of triplets the home has been too small and he does not want to move. As stated in the earlier hearing for 9 Diamond St., the subdivision was built as an “open space subdivision” which allowed undersized lots in the R-1 zone. This design makes expanding a home on the lots difficult, requiring ZBA relief from the setbacks. In addition, the surrounding topography is a hardship due to the retention ponds that surround the lot. Finally, since the home is on town sewer, the added bedroom will not be an issue. There were no abutters present to speak for or against this project.

**R. Kydd:** Motion to close the public portion of the hearing.

**S. Bordeleau:** 2<sup>nd</sup> the motion

**In Favor: 4 Opposed: 0 Absent: 2**

**Passes: 4-0-2**

Open discussion by the Board and Q & A to Applicant with Applicant responses

- Is it possible to put the addition over the garage?
- P. Nicosia: No, since there is a family room over the garage.
- The Board felt that due to the hardship of various easements, they didn't have any issues with the project. In addition, the design mirrors much of the neighborhood's current aesthetics and would fit in.

Review Notes/Comments on Application from other Tyngsborough Departments

Conservation Commission: None

Sewer: None

Selectmen: None

Board of Health: None

Fire Dept.: None

Building Commissioner: None

Tax Collector: None

Police Dept.: None

Highway Dept.: None

Assessor: None

**C. Mechalides:** Motion to grant a Variance under Section 2.12.50 for 80 Diamond St.

**S. Bordeleau:** 2<sup>nd</sup> the motion

**In Favor: 4 Opposed: 0 Absent: 2**

**Passes: 4-0-2**

**Motion written as follows:**

Motion to **APPROVE**; 80 Diamond Street (Assessors Map 15, Parcel 2, Lot 26); the requested Variance from the requirements of Section 2.12.50 of the Zoning By-Laws for dimensional side yard setbacks in an R-1 Zone, from the required 30 ft. to 14 ft. in order to construct a one floor master bedroom addition to the existing home as shown on Certified Plot Plan dated 6/7/13; and the Preliminary Floor Plan & Elevation Plan dated 6/12/13 by Chris Mechalides, Seconded by Scott Bordeleau.

**4-0, Motion to APPROVE – unanimous**

<b>Claire Cloutier</b>	<b>AYE</b>
<b>Chris Mechalides</b>	<b>AYE</b>
<b>Robb Kydd</b>	<b>AYE</b>
<b>Scott Bordeleau</b>	<b>AYE</b>

## **DISCUSSION**

1. 276 Middlesex Rd. – Assaad Maroun

Property owner Assaad Maroun appeared before the Board for an update on his property use dilemma. The Board received word from Town Counsel that the easements on the plan are valid and remain in perpetuity. The Board is still waiting for additional guidance on the proposal and the circumstances of the property and what can be done. C. Cloutier said that she would contact Atty. Zaroulis to discuss the issue.

## **ADMINISTRATIVE**

1. Minutes: The minutes were not ready for approval.
2. Next meeting is scheduled for August 8, 2013

**8:15pm**

**C. Cloutier:** Motion to adjourn

**C. Mechalides:** 2<sup>nd</sup> the motion

**In Favor: 4 Opposed: 0 Absent: 2**

**Passes: 4-0-2**

Minutes respectfully submitted by  
Pamela Berman, ZBA Administrative Assistant